

August 17, 1955

E-54

George F. Nelson

Attorney General's

Roy Y. Lang, Director
Division of Personnel
State House
Concord, N. H.

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SEP 22 1958

CONCORD, N.H.

Dear Roy:

You have asked whether the Fish and Game Commission may fill a job within their agency, "the incumbent of which serving in the capacity of an assistant and receive a commensurate salary."

Laws of 1955, chapter 338, making appropriations for the year ending June 30, 1956, in its appropriation for the Fish and Game Department reduced the item of personal services to \$32,681.30 from the \$38,860.56 requested, being the salary and compensation of the assistant to the Fish and Game Director and expressly stated "the classified position of assistant to the Fish and Game Director is hereby abolished and no part of the funds accruing to the Fish and Game Department shall be hereafter expended for the establishment of such a position."

In chapter 339, making appropriations for the year ending June 30, 1957, the personal services item was reduced from \$39,632.96 to \$33,164.30, a reduction of \$6,468.66, which appears to be a projected salary of assistant to the Fish and Game Director for that year although chapter 339 does not contain the same footnote as chapter 338.

Nevertheless, the legislative direction is clear and the Commission may not by indirection accomplish what the legislature has expressly forbidden by direction.

The Fish and Game Commission may not during this biennium fill, or have, a job within their agency, the incumbent of which serves in the capacity of an assistant and receives a commensurate salary.

Very truly yours,

George F. Nelson
Assistant Attorney General

GFN:L